



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

ANITA ALVAREZ
STATE'S ATTORNEY

CRIMINAL PROSECUTIONS BUREAU
2650 SOUTH CALIFORNIA AVE.
CHICAGO, ILLINOIS 60608

To: All Supervisors, Criminal Prosecutions Bureau

From: Joe Magats, Deputy Chief, Criminal Prosecutions Bureau

Re: Potential Giglio material regarding Chicago Police Officer Arturo Fonseca, Star# 10739

Date: June 22, 2016

Cc: Dan Kirk, First Assistant
Walt Hehner, Chief Deputy
Garvin Ambrsoe, Chief of Staff
Fabio Valentini, Chief, Criminal Prosecutions Bureau
Mike Golden, Chief, Special Prosecutions Bureau
Tisa Morris, Chief, Juvenile Justice Bureau
Donald Pechous, Acting Chief, Civil Actions Bureau
Brian Sexton, Chief, Narcotics Prosecutions Bureau

On May 16, 2016 The Honorable Judge Cynthia Ramirez, in the case of In re P.C., 16 JD 895, made an adverse credibility finding regarding the testimony of Chicago Police Officer Arturo Fonseca, Star# 10739. A copy of Judge Ramirez's findings is attached to this memo.

Pursuant to Brady v. Maryland, 373 US 83 (1963), the prosecution's disclosure of exculpatory information is part of the constitutional right to a fair trial. This duty of disclosure also includes evidence that may impeach the credibility of a prosecution witness. Giglio v. United States, 405 U.S. 150, 154 (1972). Judge Ramirez's finding regarding Officer Fonseca's testimony could potentially be found to be the type of information required to be disclosed under Giglio.

Given this possibility, if you or any of the assistants that you supervise have a case where Officer Fonseca is listed as a potential witness on our answer to discovery, Judge Ramirez's finding is to be disclosed to the defense prior to trial. The MIS Department is doing a computer search to determine whether Officer Fonseca is a witness on any pending felony cases. Once I have the results of that search, I will forward them to each of you. Please don't call MIS and have another list run. In addition, MIS has been instructed to flag Officer Fonseca's name in CRIMES in order to alert ASAs that a notice of disclosure is required in the case. Units that do not have a computer case management system will have to check their files to determine whether Officer Fonseca is a witness on any pending cases.

If you or the assistants that you supervise have a case where Officer Fonseca is listed as a witness, please tender to the defense the attached Notice of Disclosure prior to trial. None of the ASAs that you supervise are to file the notice without your knowledge. An electronic copy of the notice will be sent to you.

Also please remind your ASAs that the mere fact that this possible Giglio material is discoverable and has been tendered to the defense does not in and of itself mean that the defense can introduce the evidence at trial or cross-examine Officer Fonseca regarding the material. The ASAs should, in the appropriate cases, file all necessary motions to seek a judicial determination as to whether this information is Giglio material and, if so, whether the material is relevant and admissible at any trial or hearing where Officer Fonseca is going to be called as a witness.

In general, the case law in this area is, of course, set out in United States v. Brady, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). The timing of disclosure is governed by Weatherford v. Bursey, 429 U.S. 545 (1997). What needs to be disclosed is discussed in United States v. Agurs, 427 U.S. 97 (1976); United States v. Diaz, 922 F.2d (2nd Cir. 1990); United States v. Veras, 51 F.3d 1365 (7th Cir. 1995) and United States v. Kiszewski, 877 F.2d 210 (2nd Cir. 1989). Limiting the use of this type of information is discussed in People v. Driskell, 213 Ill.App.3d 196 (4th Dist. 1991) and People v. Fonza, 217 Ill.App.3d 883, 892 (1st Dist. 1991).

STATE OF ILLINOIS)

SS.

COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY

PEOPLE OF THE STATE OF ILLINOIS)

VS

Case No. _____

/

NOTICE OF DISCLOSURE TO THE DEFENDANT

Now come the People of the State of Illinois by their attorney Anita Alvarez, State's Attorney of Cook County, Illinois, through her assistants / and / hereby disclose to the defendant as follows:

1. On May 16, 2016 The Honorable Judge Cynthia Ramirez, in the case of In re P.C., 16 JD 895, made an adverse credibility finding regarding the testimony of Chicago Police Officer Arturo Fonseca, Star# 10739.
2. That Officer Fonseca is listed as a witness for the prosecution in the above-captioned case.
3. A copy of Judge Ramirez's May 16, 2016 finding is attached to this Notice.

Respectfully submitted,

Anita Alvarez
State's Attorney of Cook County

By:

Assistant State's Attorney

Assistant State's Attorney